

Docket No.: ECC-5062CIP2

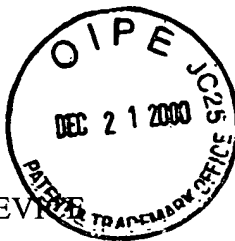
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mooney et al.

Application No.: 09/329,002

Filed: June 08, 1999

Title: MULTIPLE LUMEN DEVICE
AND METHOD



) Group Art Unit: 3763

) Examiner: L. Thanh

TC 3700 MAIL ROOM

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ELECTION AND AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Madam:

This communication is responsive to the Restriction Requirement dated November 7, 2000. Please cancel claims 81-85 without prejudice so that Applicants may pursue these claims later in the divisional application.

Also, please withdraw claims 12-16, 19, 25, 38-59, 71-74 as directed to non-elected species of the invention. Upon the allowance of a generic claim, Applicants will be entitled to consideration of these claims to additional species as provided by 37 CFR 1.141.

Accordingly, claims 1-11, 17, 18, 20-24, 26-37, 60-70 and 75-80 remain pending.

REMARKS

First, Applicants would like to express their gratitude to Examiner LoAn Thanh for the productive telephone discussion on December 20, 2000 addressing the election requirement and the proposed election. During telephone discussion Applicants presented several arguments in support of the alternative election. The Examiner indicated her preliminary agreement with the Applicants' arguments and suggested that they should be put in writing in this response. Below is a summary of such arguments.

Originally, the Examiner issued a Restriction Requirement as to one of the following two groups of claims: I) Claims 1-59 – device claims and II) Claims 60-85 – method claims. At that time the Examiner stated that the process as claimed could be practiced by another different apparatus such as a balloon catheter, a syringe or intravenous system. Applicants respectfully